

BREED™



World Headquarters
5300 Allen K Breed Highway
P.O. Box 33050
Lakeland, FL 33807-3050
(863) 668-6000

December 11, 2001

National Highway Traffic Safety Administration
Docket Management
Room PL-401
400 Seventh Street, S.W.,
Washington, D.C. 20590

Re: Reporting of Information About Foreign Safety Recalls and Campaign Related to Potential Defects; Notice of Proposed Rulemaking (66 F.R. 51907; October 11, 2001); Docket No. NHTSA –2001-10773-1

Dear Dr. Runge:

BREED Technologies, Inc. is a manufacturer of automotive safety equipment including, seat belts, airbags and steering wheels and we respectfully submit these comments regarding the above-referenced matter (the “NPRM”).

In the NPRM NHTSA has sought further comment on two situations previously raised by the Automotive Occupants Restraint Council (Council) and by BREED.

The first situation would address instances where a vehicle is recalled overseas that is not sold in the U.S. Assuming that the vehicle manufacturer would not have a reporting obligation, the Council recognized that the recall could involve restraint systems that are substantially similar to those sold in the U.S., but cautioned that the supplier could report only after it learns that a recall has been initiated. The second situation would be if a supplier discovers a potential safety defect in a production run of parts. These comments recognize that restraint systems such as seat belts and airbags could be substantially similar in a variety of different vehicles.

A COMPONENT SUPPLIER’S KNOWLEDGE OF A RECALL OR OTHER SAFETY ACTION

Regarding the first situation, BREED agrees with the Council that an equipment manufacturer should not be responsible to report a recall that it does not know about, although practically speaking, vehicle manufacturer would have likely been in contact with its supplier in advance of a recall, and during and after a recall the manufacturer typically seeks replacement parts and compensation from the equipment supplier, thus putting the supplier on notice. BREED is more concerned about the related issue of a supplier’s knowledge of an “other safety campaign.”

The proposed broad definition of an “other safety campaign” (“an action in which a manufacturer communicates with owners and/or dealers with respect to conditions under which a vehicle or equipment item should be operated, repaired, or replaced, that relate to safety”) might include, for example, a general “Buckle-Up” type campaign to remind vehicle owners to use their seat belts, or a notice that children should be placed in rear seats, or any other advisory or precautionary safety campaign which, by definition will implicate all safety products. The component supplier may know nothing about such a campaign. BREED recommends that the definition of “other safety campaigns” reflect only those campaigns that recommend *specific corrective actions* (i.e., repair or replacement). Even then, however, while a repair or replacement campaign might be discussed with a supplier, particularly to ensure that sufficient inventory is available to meet the customers’ needs; BREED further recommends that a lack of knowledge by a supplier of a recall or a safety campaign by a vehicle manufacturer be an affirmative defense against a claim that a supplier failed to report.

POTENTIAL SAFETY DEFECT IN A PRODUCTION RUN OF PARTS

Example - Supplier A manufactures parts in the U.S. for sale to U.S. vehicle manufacturers. A subsidiary of Supplier A manufactures the identical or substantially similar parts in Asia for sale exclusively to Asian vehicle manufacturers for sale only in Asia. Supplier A discovers that a manufacturing process change at its Asian subsidiary has caused a manufacturing defect in a part manufactured at that location. Because it is known when and where the process change occurred, all of the defective parts can be identified, and because they are sold only to an Asian vehicle manufacturer, who does not export to the U.S., no defective parts will reach the U.S.

Whenever it is determined that a defect in a vehicle component exists, one of the first examinations that is made is to establish the population of the defective vehicles or equipment in the field. In this way the manufacturer can determine what must be recalled. If it can be determined that the defective population consists of parts that exist only outside the U.S., the supplier should not be required to report the foreign recall, regardless of the fact that the identical or a substantially similar part may also have been supplied to the U.S. market.

BREED has suggested this focus on the similarity of the condition of parts or vehicles rather than the similarity of the parts or vehicles themselves in past submissions, and while it is most evident in a scenario such as the foregoing, it is respectfully submitted that this focus addresses many of the issues raised by other commentators about the ambiguity and breadth of the identical or substantially similar language in the NPRM.

Thank you for providing BREED Technologies with the opportunity to present these comments.

Respectfully submitted,
Stuart D. Boyd
Sr. Vice President and General Counsel